

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

**IN RE: DIET DRUGS  
(PHENTERMINE, FENFLURAMINE,  
DEXFENFLURAMINE) PRODUCTS  
LIABILITY LITIGATION**

**MDL DOCKET NO. 1203**

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**THIS DOCUMENT RELATES TO**

<b>Rachelle Benn</b>	<b>MDL# 02-20143</b>
<b>Barbara Boyle</b>	<b>MDL# 02-20143</b>
<b>Lisa Charles</b>	<b>MDL# 02-20143</b>
<b>Darlene Coleman</b>	<b>MDL# 02-20143</b>
<b>Gladys Constant</b>	<b>MDL# 02-20135</b>
<b>Elise Daniels</b>	<b>MDL# 02-20143</b>
<b>Edward Deshotel</b>	<b>MDL# 02-20252</b>
<b>Bianca Doubleday</b>	<b>MDL# 02-20135</b>
<b>Jacquelyn Durand</b>	<b>MDL# 02-20143</b>
<b>Toni Durapau</b>	<b>MDL# 02-20135</b>
<b>Gregory Elgin</b>	<b>MDL# 02-20143</b>
<b>Audry Eumont</b>	<b>MDL# 02-20135</b>
<b>Tonya Fava</b>	<b>MDL# 02-20143</b>
<b>Caroline Favorite</b>	<b>MDL# 02-20134</b>
<b>Rose Fox</b>	<b>MDL# 02-20252</b>
<b>Toni Geata</b>	<b>MDL# 02-20140</b>
<b>Brenda Gaines</b>	<b>MDL# 02-20143</b>

<b>Adam Galley</b>	<b>MDL# 02-20135</b>	§
<b>Cheryl Guidry</b>	<b>MDL# 02-20131</b>	§
<b>Elizabeth Guillote</b>	<b>MDL# 02-20143</b>	§
<b>Debbie Hall</b>	<b>MDL# 02-20137</b>	§
<b>Frances Hauser</b>	<b>MDL# 02-20137</b>	§
<b>Wanda Herrington</b>	<b>MDL# 02-20143</b>	§
<b>Joyce Hickman</b>	<b>MDL# 02-20252</b>	§
<b>Cynthia Hill</b>	<b>MDL# 02-20135</b>	§
<b>Pamela Hitchen</b>	<b>MDL# 02-20141</b>	§
<b>Dr. Cathy Honore</b>	<b>MDL# 02-20138</b>	§
<b>Michael Ippolito</b>	<b>MDL# 02-20252</b>	§
<b>Kim Jacob</b>	<b>MDL# 02-20143</b>	§
<b>Lanette Jones</b>	<b>MDL# 02-20252</b>	§
<b>Morris Lewis</b>	<b>MDL# 02-20252</b>	§
<b>Shawnell Livas</b>	<b>MDL# 02-20136</b>	§
<b>Donald Mayeaux</b>	<b>MDL# 02-20143</b>	§
<b>Danita McDaniel</b>	<b>MDL# 02-20143</b>	§
<b>Ruby Merrick</b>	<b>MDL# 02-20143</b>	§
<b>Kathleen Moran</b>	<b>MDL# 02-20143</b>	§
<b>Doris Moreau</b>	<b>MDL# 02-20252</b>	§
<b>Audrey Morgan</b>	<b>MDL# 02-20252</b>	§
<b>Martha Ned</b>	<b>MDL# 02-20143</b>	§

<b>Kimberly Norwood</b>	<b>MDL# 02-20252</b>	<b>§</b>
<b>Mary Owen</b>	<b>MDL# 02-20135</b>	<b>§</b>
<b>Elizabeth Pavy</b>	<b>MDL# 02-20252</b>	<b>§</b>
<b>Mary Payne</b>	<b>MDL# 02-20252</b>	<b>§</b>
<b>Linda Petticrew</b>	<b>MDL# 02-20143</b>	<b>§</b>
<b>Betty Rogers</b>	<b>MDL# 02-20252</b>	<b>§</b>
<b>Janell Rushing</b>	<b>MDL# 02-20143</b>	<b>§</b>
<b>Kristen Silva</b>	<b>MDL# 02-20143</b>	<b>§</b>
<b>Kathryn Smith</b>	<b>MDL# 02-20136</b>	<b>§</b>
<b>Jacquelyn Tolliver</b>	<b>MDL# 02-20138</b>	<b>§</b>
<b>Cynthia Williams</b>	<b>MDL# 02-20132</b>	<b>§</b>

**PLAINTIFFS' SUPPLEMENTAL RESPONSE TO WYETH'S MOTION  
CHALLENGING PLAINTIFFS' ELIGIBILITY TO SUE IN 71 CASES WHERE  
MEDICAL ELIGIBILITY IS BASED ON ECHOCARDIOGRAM READINGS  
BY DR. WILLIAM SHELL**

COME NOW Plaintiffs, and file this their supplemental response to Wyeth's motion to challenge Plaintiffs' eligibility to sue in 71 cases where medical eligibility is based on echocardiogram readings by Dr. William Shell, and in support of said response would show this Honorable Court as follows:

I.

Plaintiffs do not contest the evidence submitted by Wyeth in their motion to dismiss.

## II.

For purposes of clarification, The fifty Plaintiffs who are currently the subject of this motion are: Rachelle Benn, Barbara Boyle, Lisa Charles, Darlene Coleman, Gladys Constant, Elise Daniels, Edward Deshotel, Bianca Doubleday, Jacquelyn Durand, Toni Durapau, Gregory Elgin, Audry Eumont, Tonya Fava, Caroline Favorite, Rose Fox, Toni Geata, Brenda Gaines, Adam Galley, Cheryl Guidry, Elizabeth Guillote, Debbie Hall, Frances Hauser, Wanda Herrington, Joyce Hickman, Cynthia Hill, Pamela Hitchen, Dr. Cathy Honore, Michael Ippolito, Kim Jacob, Lanette Jones, Morris Lewis, Shawnell Livas, Donald Mayeaux, Danita McDaniel, Ruby Merrick, Kathleen Moran, Doris Moreau, Audrey Morgan, Martha Ned, Kimberly Norwood, Mary Owen, Elizabeth Pavy, Mary Payne, Linda Petticrew, Betty Rogers, Janell Rushing, Kristen Silva, Kathryn smith, Jacquelyn Tolliver, and Cynthia Williams.

## III.

Wyeth has asked this Court to dismiss, with prejudice, each of these Plaintiffs' claims in the diet drug litigation due to the fact that they rely on echocardiograms performed by Dr. William Shell to establish their eligibility to file suit. Plaintiffs contest dismissal of their cases and request that the Court enter an alternate remedy. Plaintiffs would argue that the proper remedy in this case is that the echocardiograms that Plaintiffs rely on be re-read by a neutral, third-party cardiologist and that the opinions issue by that cardiologist be used to determine eligibility.

## III.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs respectfully request that this Court deny Wyeth's motion to dismiss, with prejudice, and order that the above referenced Plaintiffs' echocardiograms be re-read by a neutral third-party cardiologist.

Respectfully submitted,

**O'QUINN, LAMINACK & PIRTLE**

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing motion has been forwarded via facsimile to the attached service list on this 24<sup>th</sup> day of October, 2003.

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